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10 IN THE UNITED STATES BANKRUPTCY COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA
12 (Sacramento Division)

13 In re:) Case No. 08-38758
14 George Luis Landeros and) Chapter 7 case
15 Sylvia Duenas Landeros,) DC No. CWC-2
16 2779 Annette Court)
17 Tracy, CA 95304)
18 s.s. xxx-xx-4933)
19 xxx-xx-0580)
20 Debtors.) Date: March 16, 2010
21 Time: 9:32 a.m.
22 Place: Courtroom 32

23 MOTION FOR AUTHORITY TO SELL NON-EXEMPT
24 EQUITY IN PERSONAL PROPERTY TO DEBTORS

25 To: The Honorable Thomas C. Holman, U.S. Bankruptcy Judge:
26 The Chapter 7 Trustee, Stephen C. Ferlmann, pursuant to 11
27 U.S.C. § 363(b) and Federal Rule of Bankruptcy Procedure 6004,
28 respectfully moves the Court for authorization to sell to the
29 Debtors' the non-exempt equity in certain personal property in
30 exchange for a payment of \$4,000.00, and respectfully represents:
31 1. This Court has jurisdiction of this matter under 28
32 U.S.C. §§ 1334 and 157(a).
33 2. The Debtors filed a voluntary Chapter 7 petition on
34 December 18, 2008. Stephen C. Ferlmann has been appointed
35 Trustee in the case.

1 3. Among the assets of the Chapter 7 bankruptcy estate is
2 the Debtors' interest in the following equipment (the
3 "Property"):

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|----|----|--|----------------|
| 4 | a. | 553 Bobcat disclosed in the Debtors' Bankruptcy | |
| 5 | | Schedule B with a value of \$4,000. The Trustee is | |
| 6 | | informed and believes that the Bobcat has a fair | |
| 7 | | market value of approximately \$8,000 | \$8,000 |
| 8 | b. | 2 concrete mixers used in the Debtors' business | |
| 9 | | which were not disclosed in the Debtors' | |
| 10 | | bankruptcy schedules. The Trustee is informed | |
| 11 | | and believes that these mixers have a fair | |
| 12 | | market value of approximately \$1,900 | \$1,900 |
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| | | Total | <u>\$9,900</u> |

11 4. The Trustee is informed and believes that said Property
12 is unencumbered and that the Debtors have possession of any
13 applicable titles thereto. The Debtors' Bankruptcy Schedule D
14 reflects no lien or security interest claimed by any secured
15 creditor in the Property.

16 5. The Debtors have asserted an exemption in the 553 Bobcat
17 pursuant to California Code of Civil Procedure §§ 704.010 and
18 (b)(5) in the amount of \$4,000.00.

19 6. Based upon his experience in liquidating similar assets
20 of bankruptcy estates at public auction and after payment of an
21 auctioneers commission and application of the Debtors' claimed
22 exemptions, the bankruptcy estate would net approximately
23 \$4,415.00 from a public auction sale of the Property.

24 7. The Debtors wish to retain the above-described Property
25 and desire to purchase the non-exempt equity in such Property
26 from the bankruptcy estate.

27 8. Accordingly, the Trustee and the Debtors have entered
28 into an Equity Sale Agreement (the "Agreement") which provides

1 that the Debtors shall pay the bankruptcy estate the total cash
2 sum of \$4,000.00 (the "Purchase Amount") for the non-exempt
3 equity in the Property. A copy of the Equity Sale Agreement is
4 attached to the List of Exhibits filed concurrently herewith.
5 The Agreement further provides that the Purchase Amount shall be
6 non-exempt property of the Debtors' bankruptcy estate. Upon
7 payment of the Purchase Amount, the Debtors shall be entitled to
8 retain the Property and the Property shall cease being property
9 of the bankruptcy estate.

10 9. 11 U.S.C. § 363(b)(1) authorizes a trustee, after notice
11 and hearing, to sell property of the estate other than in the
12 ordinary course of business.

13 10. Trustee believes that the sale of the non-exempt equity
14 in the Property to the Debtors is in the best interests of the
15 estate and should be approved by the Court. The proposed equity
16 sale is an equitable and expeditious manner of liquidating the
17 Property by which the bankruptcy estate will eliminate the risks,
18 costs and delays of liquidating such assets by way of public
19 auction.

20 WHEREFORE, Trustee respectfully requests that the Court
21 approve the Agreement, and authorize the Trustee to enter into
22 the proposed sale of the non-exempt equity in the Property to the
23 Debtors.

24 Dated: 2-18-10

Law Office of Carl W. Collins



Carl W. Collins
Attorney for Trustee